

Message Text

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ORIGIN EB-08

INFO OCT-01 EUR-12 ISO-00 COME-00 DODE-00 DOE-15 SOE-02
NSAE-00 ICA-11 TRSE-00 CIAE-00 /049 R

DRAFTED BY EB/ITP/EWT/WAROOT:TLW
APPROVED BY EB/ITP/EWT/WAROOT
OSTP - A. MORRISSEY (DRAFT)
COMMERCE/OEA - R. MEYER (DRAFT)
DEFENSE/ISA - M. MOUNTAIN (DRAFT)
ENERGY/ISA - J. KRATZ (DRAFT
-----056982 181510Z /47
R 181040Z APR 78
FM SECSTATE WASHDC
TO AMEMBASSY PARIS
AMEMBASSY LONDON

C O N F I D E N T I A L STATE 098593

USOECD

E.O. 11652: XGDS-1

TAGS: ESTC, COCOM

SUBJECT: U.S. POSITION FOR COCOM APRIL 25 MEETING ON
TECHNOLOGY AND EQUIPMENT CONTAINING COMPUTERS

REF: A) PARIS 07662; B) PARIS 10995 (NOTAL)

1. USDEL IS REQUESTED TO SUBMIT THE FOLLOWING TO THE
COMMITTEE NOW:

A. INTRODUCTION

THE U.S. APPRECIATES THE INITIATIVE OF THE NETHERLANDS IN
RAISING FUNDAMENTAL QUESTIONS OF CONTROLLING TECHNOLOGY
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THROUGH PRODUCT CONTROLS AND EMBEDDED MICROPROCESSORS AND
WOULD APPRECIATE COMMITTEE CONSIDERATION OF THE FOLLOWING
POINTS AT THE SPECIAL APRIL 25 MEETING BEING CONVENED ON
THESE SUBJECTS.

B. DOUBLE COVERAGE OF EQUIPMENT CONTAINING COMPUTERS

THE UNITED STATES BELIEVES THAT REFERENCES TO EQUIPMENT
CONTAINING COMPUTERS, MICROCOMPUTERS, AND MICROPROCESSORS
NEED NOT BE RETAINED IN OR ADDED TO ITEMS OTHER THAN 1564

AND 1565.

JUSTIFICATION: THE POSSIBILITY OF DIFFERING INTERPRETATIONS WILL BE REDUCED IF COMPUTERS, MICROCOMPUTERS, AND MICROPROCESSORS PER SE ARE EMBARGOED ONLY IN 1565 (OR 1564). OTHER ITEMS OF STRATEGIC SIGNIFICANCE MAY ALSO CONTAIN THESE DEVICES. IN THAT EVENT, THOSE OTHER ITEMS SHOULD FIRST BE DEFINED IN TERMS OF THE FUNCTIONAL CAPABILITIES WHICH MAKE THEM STRATEGIC AND SECOND BE CHECKED AGAINST 1564 AND 1565.

THERE IS NO NEED FOR MORE RESTRICTIVE CONTROLS ON ITEMS CONTAINING THEM UNLESS THE DEVICES THEMSELVES DETERMINE THE STRATEGIC NATURE OF THE ITEMS. FOR THIS REASON, THE DEFINITION OF THESE OTHER ITEMS NEED CONTAIN NO SPECIFICATIONS OF THE CONTAINED COMPUTERS.

FOR EXAMPLE, THE COMMITTEE AGREED UNANIMOUSLY IN MAY 1977 DURING THE DISCUSSION OF THE U.S. PROPOSAL ON NUMERICAL CONTROL UNITS (1500 NI) THAT COMPUTER TECHNOLOGY FOR COMPUTATIONAL DEVICES INCORPORATED IN DECONTROLLED NUMERICAL CONTROL UNITS WOULD CONTINUE TO BE COVERED BY EXISTING ITEMS 1564 AND 1565. ACCORDINGLY, THE U.S. IS CONFIDENTIAL

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REVISING ITS PROPOSAL FOR 1500 NI TO DROP THE DISTINCTION BETWEEN HARDWIRED AND SOFTWIRED (I.E. COMPUTERIZED) NUMERICAL CONTROL UNITS.

ON THE OTHER HAND, THE DEFINITIONS OF SOME OTHER ITEMS SUCH AS INSTRUMENTS EMBARGOED BY 1529(B)(5) AND 1533(E) WILL HAVE TO CONTINUE TO INCLUDE SPECIFICATIONS RELATED TO THE CONTAINED COMPUTATIONAL DEVICES, BECAUSE THESE ARE AMONG THE SPECIFICATIONS WHICH MAKE THE INSTRUMENTS STRATEGIC.

C. DOUBLE COVERAGE OF TECHNOLOGY

THE UNITED STATES PROPOSES THAT NOTE 1 TO ITEM 1564, NOTE 2 TO ITEM 1565, PARA (D) OF NOTE 2 TO ITEM 1572, AND PARA (E) OF NOTE 3 TO ITEM 1572 BE DELETED AND THAT THE TECHNOLOGY NOTES AT THE BEGINNING OF EACH LIST AGREED IN DECEMBER AS A SUBSTITUTE FOR ADMINISTRATIVE PRINCIPLE 5 BE AMENDED BY DELETING "IN SO FAR AS PRACTICABLE" AND BY ADDING AT THE END THEREOF:

",THE PORTIONS OF THOSE ITEMS FOR WHICH SHIPMENTS ARE PERMITTED WITHOUT REPORTING TO THE COMMITTEE, AND THE PORTIONS OF THOSE ITEMS WHICH ARE EXCLUDED FROM CONTROL BUT FOR WHICH THE TECHNOLOGY IS ALSO RELEVANT TO THE CONTROLLED PORTIONS. ANY SUCH EXPORT SHALL BE SUBJECT TO THE COMMITTEE'S REGULAR EXCEPTION PROCEDURES."

JUSTIFICATION:

IN CONNECTION WITH THE FOUR POINTS LISTED IN PARA 2 OF
DOC PROC (78)2.2, THE U.S. WISHES TO SUBMIT THE ABOVE
PROPOSAL AS A FIRST STEP TO A CLEARER STANDARDIZED
APPROACH TO TECHNOLOGY.

IT WOULD BE CLEARER TO HAVE A STANDARDIZED APPROACH TO
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TECHNOLOGY FOR THE PRODUCTION OF EMBARGOED ITEMS RATHER
THAN TO ATTACH TECHNOLOGY NOTES WITH VARYING TEXTS TO
SOME ITEMS BUT NOT TO OTHERS.

NOTE 2 TO ITEM 1565 COULD BE DELETED PROVIDED THAT THE
STANDARDIZED NOTE AT THE BEGINNING OF EACH LIST WERE
AMENDED TO DELETE "IN SO FAR AS PRACTICABLE" AND TO ADD
REFERENCES TO "THE PORTIONS OF THOSE ITEMS FOR WHICH
SHIPMENTS ARE PERMITTED WITHOUT REPORTING TO THE
COMMITTEE", E.G. THOSE COMPUTERS MEETING THE CONDITIONS
OF NOTE 6, AND "ANY SUCH EXPORT SHALL BE SUBJECT TO THE
COMMITTEE'S REGULAR EXCEPTION PROCEDURES", THE FORM OF
CONTROL NOW IN NOTE 2 TO ITEM 1565. ON THE SAME BASIS,
PARA (D) OF NOTE 2 TO ITEM 1572 AND PARA (E) OF NOTE 3
TO ITEM 1572 COULD BE DELETED.

NOTE 1 TO ITEM 1564 COVERS TECHNOLOGY RELATED TO CIRCUIT
ELEMENTS "REFERRED TO IN THIS ITEM" RATHER THAN "COVERED
BY THIS ITEM." THIS MAKES IT CLEAR THAT COVERAGE EXTENDS
TO THE MANUFACTURE OF ELEMENTS EXCEPTED FROM EMBARGO BY
THE TERMS OF THE ITEM. THE PURPOSE IS TO PREVENT THE
TRANSFER OF TECHNOLOGY RELATED TO DECONTROLLED ELEMENTS
IF THE SAME TECHNOLOGY IS USEFUL FOR THE DESIGN, PRODUCTION
OR USE OF CONTROLLED ELEMENTS. THIS APPROACH WOULD
LOGICALLY APPLY TO MANY OTHER ITEMS ON THE LIST. THEREFORE,
IT IS PROPOSED THAT THE GENERAL TECHNOLOGY NOTES
INCLUDE THE PHRASE "THE PORTIONS OF THOSE ITEMS WHICH ARE
EXCLUDED FROM CONTROL BUT FOR WHICH THE TECHNOLOGY IS
ALSO RELEVANT TO THE CONTROLLED PORTIONS."

THE APPROACH SUGGESTED HERE WOULD BE CONSISTENT WITH THE
SUGGESTION OF THE NETHERLANDS THAT A WAY BE FOUND TO
REMOVE FROM EMBARGO PRODUCTS NOW CONTROLLED JUST TO SAFE-
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GUARD AND PREVENT THE EXPORT OF THE RELATED TECHNOLOGY.
HOWEVER, BEFORE GENERALIZING THIS APPROACH IN THE FORTH-
COMING LIST REVIEW, IT WOULD BE USEFUL TO ASCERTAIN
WHETHER OTHER MEMBERS CAN ASSURE THE COMMITTEE THAT THEY

CAN CONTROL TECHNOLOGY FOR PRODUCTS WHICH ARE NOT THEMSELVES CONTROLLED.

THIS U.S. PROPOSAL IS NOT NECESSARILY THE ONLY ONE ON

TECHNOLOGY WHICH THE U.S. WILL PROPOSE AT THE FORTHCOMING LIST REVIEW. FOR INSTANCE, THE WORDING IN THE TECHNOLOGY NOTES SHOULD PERHAPS BE MADE CONSISTENT WITH THE WORDING IN THE STRATEGIC CRITERIA. THERE WOULD ALSO APPEAR TO BE A NEED FOR STATEMENTS OF INTERPRETATION AS TO THE MEANING OF WHICHEVER SET OF WORDS IS CHOSEN.

D. PRODUCTION EQUIPMENT

THE NETHERLANDS PAPER STATES THAT "FOR THE GREATER PART, IF NOT ALL, THE CONTROLLABLE TECHNOLOGY IS EMBEDDED IN THE RELEVANT DESIGN PROCESS AND MANUFACTURING EQUIPMENT." THE UNITED STATES AGREES THAT KEY PRODUCTION EQUIPMENT SHOULD BE EMBARGOED. HOWEVER, THE UNITED STATES DOES NOT AGREE THAT THIS APPROACH IS ADEQUATE TO CONTROL TECHNOLOGY.

JUSTIFICATION: IN MANY INSTANCES THE CRITICAL ELEMENT IS THE MANUFACTURING TECHNOLOGY RATHER THAN THE PRODUCTION EQUIPMENT. CONTROLS WOULD BECOME TOO EXTENSIVE IF IT BECAME NECESSARY TO EMBARGO GENERAL PURPOSE PRODUCTION EQUIPMENT JUST TO CONTROL CRITICAL TECHNOLOGY FOR THE SPECIFIC USES OF THAT EQUIPMENT TO PRODUCE EMBARGOED PRODUCTS. THE NETHERLANDS OBJECTIVE OF DISCONTINUING "NOMINAL EMBARGOING" IS NOT DEPENDENT UPON CONTROL OF PRODUCTION EQUIPMENT INSTEAD OF TECHNOLOGY IF MEMBERS CAN ASSURE THE COMMITTEE THAT THEY CAN CONTROL THE CONFIDENTIAL

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TRANSFER OF TECHNOLOGY RELATED TO COMMODITIES NOT THEMSELVES EMBARGOED (PER POINT C ABOVE).

E. DECONTROL OF CONSUMER GOODS

THE NETHERLANDS PROPOSES A GENERAL NOTE THAT "CONSUMER GOODS, IRRESPECTIVE OF THE CONTROL STATUS OF THEIR CONSTITUENT PARTS, ARE EXPRESSLY EXEMPT FROM CONTROL." THE NETHERLANDS WOULD DEFINE "CONSUMER GOODS" AS "FOR PRIVATE USE THAT ARE DIRECTLY AVAILABLE TO THE PUBLIC THROUGH 'ACROSS THE COUNTER' SALES FROM NUMEROUS OUTLETS, GENERALLY BEING PRODUCED IN LARGE QUANTITIES."

THE UNITED STATES AGREES WITH THE NETHERLANDS OBJECTIVE BUT NOT WITH THE DEFINITION OF CONSUMER GOODS.

JUSTIFICATION: IN SOME RESPECTS THE NETHERLANDS DEFINITION IS TOO BROAD AND IN OTHER RESPECTS TOO NARROW.

FOR INSTANCE, SOME STRATEGIC ITEMS ARE OBTAINABLE ACROSS A COUNTER. ON THE OTHER HAND, A CASE CAN BE MADE THAT MANY TYPES OF EQUIPMENT OTHER THAN "CONSUMER", AS THAT WORD IS GENERALLY USED, SHOULD BE FREE FROM CONTROL.

INDEED, ANNEX I TO DOC PROC (78)2 LISTS NINE CATEGORIES OTHER THAN "CONSUMER." EVEN IF A LIST OF CATEGORIES COULD BE AGREED, LACK OF TECHNICAL SPECIFICATIONS WOULD PROBABLY LEAD TO CONSIDERABLE DIFFERENCES OF INTERPRETATION.

F. DECONTROL OF EQUIPMENT CONTAINING SPECIFIED COMPUTATIONAL DEVICES

THE UNITED STATES PROPOSES THAT, IN LIEU OF EXPRESS CONFIDENTIAL

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DECONTROL OF "CONSUMER GOODS", THE COMMITTEE CONSIDER ADDING NOTES TO ITEMS 1564 AND 1565 TO THE EFFECT THAT EQUIPMENT NOT EMBARGOED BY ANY OTHER ITEM SHALL NOT BE REGARDED AS CONTROLLED IF IT CONTAINS EMBEDDED COMPUTATIONAL DEVICES INFERIOR TO SPECIFIED TECHNICAL CHARACTERISTICS. IT WOULD NOT BE REASONABLE TO FRUSTRATE CONTROLS ON ESPECIALLY SIGNIFICANT COMPUTATIONAL DEVICES BY PERMITTING THEIR SHIPMENT AS PART OF LARGER EQUIPMENT OR SYSTEMS WITHOUT ANY QUALIFICATIONS. THEREFORE, THE U.S. SUGGESTS THAT EQUIPMENT NOT OTHERWISE EMBARGOED CONTAINING EMBEDDED MICROPROCESSORS OR SINGLE-CHIP MICROCOMPUTERS OR INCORPORATING DIGITAL COMPUTERS BE CONSIDERED DECONTROLLED IF SPECIFIED TECHNICAL CONDITIONS ARE MET. SHIPMENTS OF EMBARGOED COMPONENTS AS SPARES WOULD BE SUBJECT TO THE USUAL CONTROLS.

2. USDEL AND EMBASSY LONDON ARE REQUESTED TO DRAW ON THE ABOVE TO URGE APPROPRIATE UK REPRESENTATION AT COCOM APRIL 25 MEETING. US ALSO SUGGESTS BILATERAL MEETING WITH UK IN PARIS DURING THAT WEEK TO DISCUSS NOT ONLY THESE ISSUES BUT ALSO THE BEST WAY TO PROCEED WITH BROADER BILATERALS IN PREPARATION FOR LIST REVIEW AS SUGGESTED BY UK PER REF B. CHRISTOPHER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 26 sep 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COMPUTERS, EQUIPMENT, FOREIGN POLICY POSITION, INSTRUCTIONS, MEETING DELEGATIONS, MEETINGS, STRATEGIC TRADE CONTROLS, TECHNOLOGICAL EXCHANGES
Control Number: n/a
Copy: SINGLE
Draft Date: 18 apr 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978STATE098593
Document Source: ADS
Document Unique ID: 00
Drafter: EB/ITP/EWT/WAROOT:TLW
Enclosure: n/a
Executive Order: 11652 XGDS-1
Errors: n/a
Expiration:
Film Number: D780165-1071
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197804109/baaafclld.tel
Line Count: 262
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Message ID: 7338bda6-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: A) PARIS 07662; B) PARIS 10995 (NOTAL)
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 18 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2830228
Secure: OPEN
Status: <DBA CORRECTED> jms 970818
Subject: U.S. POSITION FOR COCOM APRIL 25 MEETING ON TECHNOLOGY AND EQUIPMENT CONTAINING COMPUTERS
TAGS: ESTC, US, COCOM, ESTC
To: PARIS LONDON
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/7338bda6-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014